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June 6, 2011

via electronic filing

Rachel Campbell
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423

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**RE: Docket No. NOR 42121, Total Petrochemicals USA, Inc. v. CSX
Transportation, Inc., et al.**

Dear Ms. Campbell:

I am writing on behalf of TOTAL Petrochemicals USA, Inc. ("TPI") regarding the Board's decision to suspend the procedural schedule in the above-referenced proceeding, which was served on Friday, June 3, 2011. The Board suspended the procedural schedule in order to permit it more time to decide a motion filed by CSX Transportation, Inc. ("CSXT"), on May 17, 2010, to redesignate certain workpapers and exhibits in TPI's opening market dominance evidence from "Highly Confidential" to "Confidential." TPI is concerned that the open-ended nature of the Board's decision will be highly prejudicial to it.

In its Reply to CSXT's Motion to Redesignate, TPI expressed concern that CSXT's Motion was more of a "ploy" to obtain additional time to respond to TPI's market dominance evidence than a genuine need to redesignate the highly confidential materials.¹ To the extent that CSXT's objective was to obtain additional time to reply to TPI's market dominance evidence, it already has achieved that objective. The only remaining question is how much additional time will it receive. The Board's decision to suspend the procedural schedule makes no commitment as to when the Board will issue a final decision on the merits of CSXT's motion. And, presumably any such decision will provide CSXT a period of time after the decision in which to file its reply evidence.

TPI objected to the Board's bifurcation of this proceeding into market dominance and stand-alone cost ("SAC") evidentiary phases out of concern, in part, for the additional time and cost that a longer bifurcated proceeding would impose upon TPI. In its decision to bifurcate this proceeding, served on April 5, 2011, the Board acknowledged TPI's concerns and sought to mitigate the impact of a bifurcated proceeding by establishing an expedited schedule for submitting market dominance evidence. The Board's latest decision suspending that procedural

¹ TPI Reply, at 1, n. 1 (filed May 19, 2011).

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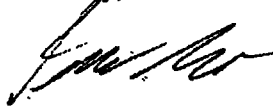
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schedule makes no mention of those concerns or even when the Board might issue a new schedule.

This is very troubling to TPI. For every week that TPI must pay the challenged tariff rates to CSXT, TPI pays a premium of approximately \$110,000 more than it would have paid over the last contract proposal from CSXT. This risk premium, or opportunity cost, to TPI of pursuing this rate case grows with every week of procedural delay.

Unfortunately, some of this harm already has occurred and cannot be undone. TPI urges the Board to decide CSXT's Motion to Redesignate with the utmost expedition and place this proceeding back on an expedited schedule in order to minimize any further prejudice to TPI.

Sincerely,



Jeffrey O. Moreno
Counsel for Total Petrochemicals USA, Inc.

Cc: G. Paul Moates, *Counsel for CSXT*
Paul A. Hemmersbaugh, *Counsel for CSXT*